



Agenda Date: 6/06/01

Agenda Item: 4F

STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION)
FOR AN ORDER AUTHORIZING PF.NET)
NETWORK SERVICES CORPORATION)
TO PROVIDE INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES)
THROUGHOUT NEW JERSEY)

ORDER OF APPROVAL

DOCKET NO. TE00110885

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated November 9, 2000, PF.Net Network Services Corporation (Petitioner or PF.Net) filed a petition with the Board of Public Utilities (Board) requesting authority to provide interexchange services throughout the State of New Jersey. In addition, PF.Net included in its November 9, 2000 letter a request for protection from disclosure of financial information in its Exhibit C. PF.Net also responded to a Staff questionnaire by letter dated December 27, 2000 and to Staff interrogatories by letter dated April 5, 2001.

BACKGROUND

According to the petition, Petitioner was incorporated under the laws of the State of Delaware on October 26, 1999. Petitioner's principal offices are located at 800 Alexander Bell Drive, Reston, Virginia 20191.

Petitioner submitted copies of its Articles of Incorporation, Delaware Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. Petition at 3, Exhibit B. According to the petition, PF.Net was formed to provide interexchange services. Petition at 1. Petitioner advised that PF.Net is currently certified to provide facilities-based and resold interexchange telecommunications services in Alabama, Arizona, Arkansas, Delaware, District of Columbia, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Massachusetts Michigan, Missouri, New York, Ohio, Oklahoma, Oregon, South Carolina, Texas and Washington. April 5, 2001 letter at 2. PF.Net has not been denied authority to provide telecommunications services in any state. In addition, PF.Net has no pending civil, criminal or administrative actions against it.

PF.Net advised that it is currently researching an opt-in interconnection agreement with Verizon New Jersey.

In its petition, Petitioner advised that it seeks authority to provide interexchange telecommunications services in order to construct dedicated private line infrastructure to be available to other communications carriers and large corporate and government customers. Services will include, but not be limited to, frame relay, ATM, and multimedia and internet related applications. Petition at 5.

Petitioner requested a waiver of N.J.A.C. 14:1-4.3 and 14.1-5.15, which require that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requested permission, in the interest of efficiency and to prevent undue burden, to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petition at 3. Petitioner also requested permission to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in Reston, Virginia. Petition at 3. Petitioner also stated that, upon written notice from the Board, it will produce its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of those books and records. April 5, 2001 Letter at 2.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petition at 5. Petitioner also asserted that approval of this petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. Petition at 7.

With regard to its managerial qualifications, PF.Net stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petition at 4. Petitioner submitted the professional biographies of its key personnel who, according to PF.Net, are well qualified to execute its business plans, and have extensive managerial and technical experience in the telecommunications industry. Petition at 4, Exhibit D.

Petitioner has submitted the consolidated financial statements and pro forma income statements and balance sheets of its parent as evidence of sufficient financing. Petition at 3, Exhibit C.

By letter dated June 5, 2001, the Division of the Ratepayer Advocate recommended approval of this petition.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections at 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed PF.Net's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources, which are necessary to provide interexchange telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide interexchange telecommunications services in New Jersey subject to approval of its tariff and submission of its own pro forma financial statements. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided. Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements to maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

The Board also APPROVES Petitioner's request that its financial records be afforded protection from disclosure.

DATED: 7/2/01

BOARD OF PUBLIC UTILITIES
BY:

(signed)
CAROL J. MURPHY
ACTING PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
SECRETARY